IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 20287 of 2004

Between:

V. Madhusudhan Murthy S/o Balakrishna
OCC: Shramica, E.No.54454, APSRTC.,

Kodad Depot, Nalgonda District.

..... PETITIONER

AND

1. A.P. State Road Transport Corporation,

rep., by Vice-Chairman and Managing Director,

Musheerabad, Hyderabad.
2. The Depot Manager,

A.P. State Road Transport Corporation,
Kodad Depot, Kodad, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more in the nature of Writ of Mandamus, directing the respondents herein to fix the pay of the petitioner by allowing all increments notionally for out of employment period and pay arrears from the date of reinstatement.

Counsel for the Petitioner: Mr. P.GOVINDA RAJULU

Counsel for the Respondents: Mr. V.T.M.PRASAD (S.C.FOR APSRTC)

The Court at the admission stage made the following ORDER:

The petitioner is working as a Cleaner in the respondents-Corporation since 1974. He was issued a charge sheet on the allegation of selling away the scrap material of the respondents-Corporation and he was removed from service vide proceedings dated 17-11-1978. He preferred an industrial dispute, covered by I.D.No.565 of 1992 before the Labour Court III, Hyderabad and the Labour Court passed an award on 23-3-1995, directing the respondents-corporation to reinstate the petitioner with continuity of service and other benefits, but without back wages. The petitioner was reinstated into service on 16-9-1995, but his pay was not fixed by adding notional increments for the out of service period from 23-12-1977 to 16-9-1995. The petitioner, therefore, approached this Court seeking a direction to the respondents to fix his pay by adding notional increment for the out of service period.

The award of the Labour Court is indicating that on reinstatement, the petitioner is entitled for continuity of service, but without back wages. A Division Bench of this Court, in **REGIONAL MANAGER, APSRTC, NIZAMABAD v. B.CHANDER RAO** held that the employee, who was reinstated with continuity of service, is entitled for notional increments. The Division Bench, while rendering the above decision, distinguished the judgment of the Supreme Court in **APSRTC & ANOTHER v. S.NARASA GOUD**, wherein the Supreme Court held that an employee is not entitled for increments for the period of his unauthorized absence, unless the said period is regularized. The Division Bench also relied on another judgment of the Supreme Court in **DEVENDRA PRATAP NARAIN RAI SHARMA v. STATE OF U.P.** and delivered the judgment in **B.CHANDER RAO** (1 Supra).

In the light of the judgment of the Division Bench in **B.CHANDER RAO** (1 supra) and in the light of the orders of the Labour Court extending the benefit of continuity of service, the petitioner is entitled to get the notional increment for the out of service period from 23-12-1977 to 16-9-1995.

In the result, this Writ Petition is allowed. The respondents are directed to fix the pay of the petitioner by working out the notional increments of the petitioner for the period from the date of termination till the date of reinstatement within eight weeks from the date of receipt of a copy of this order.

(Dr.G.YETHIRAJULU,J)

4th November, 2004.

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To

1. The Vice-Chairman and Managing Director,

A.P. State Road Transport Corporation,

Musheerabad, Hyderabad.

2. The Depot Manager,

A.P. State Road Transport Corporation,
Kodad Depot, Kodad, Nalgonda District.

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